IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6771 of 2007(V)

(IN CRIME NO.49/2007 OF THE CHERTHALA EXCISE RANGE)

PETITIONER/ACCUSED:

VIJAYAKUMARI, AGED 40 YEARS, W/O. BHASI, VADAYAZHATTU VEEDU, CHERTHALA SOUTH VILLAGE, WARD NO.VIII, CHERTHALA SOUTH PANCHAYATH, CHERTHALA.

BY ADV. SRI.C.K.SAJEEV

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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B.A.No. 6771 of 2007

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Dated this the 7th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner a woman faces allegations under the Kerala Abkari Act. Contraband articles including 2.5 litres of arrack and 30 litres of wash along with utensils for distillation were allegedly recovered from the matrimonial home of the petitioner. Her husband allegedly is involved in two other abkari offences and is facing prosecutions. Except the allegation that these articles were present in the house, no specific allegation to indicate any complicity of the petitioner is raised. Of course materials might suggest that the petitioner must also have been aware of the availability of such articles in the house.

2. The learned counsel for the petitioner submits that the allegations are totally false. Even if all the allegations raised are correct, the plight of the Indian wife in the matrimonial home may not be overlooked. Mere availability of the articles or knowledge of availability may not be held sufficient to prove the culpability of the petitioner. In these circumstances, anticipatory

bail may be granted to the petitioner. The learned Public Prosecutor opposes the application. Not withstanding the opposition by the learned Public Prosecutor I am satisfied that anticipatory bail can be granted to the petitioner herein.

3. In coming to the conclusion I have carefully considered all the relevant inputs to which I have made reference already. I take note of the fact that no specific overt act is attributed to the petitioner at all. Appropriate conditions can of course be imposed in the interests of a fair, efficient and proper investigation.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 14.11.2007.

ii) She shall be released on regular bail on condition that she executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make herself available for interrogation before the investigating officer between 10 a.m and 1 p.m on 15.11.2007 and 16.11.2007 and thereafter as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with her in accordance with law, as if these directions were not issued at all.

(v) If she were arrested prior to 14.11.2007, she shall be released on bail on her executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 14.11.2007.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE